

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

HAROLD HACKNEY

vs.

**CIVIL ACTION: _____
JURY REQUESTED**

**CONCORD HEALTHCARE GROUP, LLC
d/b/a GARDENDALE REHABILITATION
AND NURSING CENTER**

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

INTRODUCTION

1. Plaintiff Harold Hackney alleges violations of the Fair Labor Standards Act (“FLSA”) entitlement of the right to receive pay for all time worked for Defendant. Defendant have failed to pay Plaintiff and other similarly situated for continuous workday activities which are integral and indispensable to their principal activities. For himself the named Plaintiff seeks his unpaid wages, overtime, liquidated damages, all available equitable relief, attorney fees, and litigation expenses/costs, including expert witness fees and expenses.

PARTIES

2. The named Plaintiff is an employee of the Defendant. The Plaintiff brings this action to recover unpaid compensation due him.

3. The Defendant CONCORD HEALTHCARE GROUP, LLC, d/b/a GARDENDALE REHABILITATION AND NURSING CENTER is a limited liability company doing business in

PLAINTIFF'S COMPLAINT

Page 1

the State of Texas. Defendant CONCORD HEALTHCARE GROUP, LLC d/b/a GARDENDALE REHABILITATION AND NURSING CENTER does business in the Eastern District of Texas and can be served through its registered agent, Vcorp Services, LLC, 1999 Bryan St., Suite 900, Dallas, Texas 75201-3136.

4. At all times relevant to this lawsuit, the Defendant has employed and continue to employ a substantial number of employees in non-exempt work. Defendant business operation in Cherokee County, Texas, is, at present, and was at all times relevant to this lawsuit, engaged in the performance of related activities through unified operation or common control for a common business purpose and is an enterprise within the meaning of 29 U.S.C. §213(s)(6).

JURISDICTION

5. Jurisdiction is conferred upon this Court by 28 U.S.C. §1331, 29 U.S.C. §216(b) and 28 U.S.C. § 1337. This action arises under the Fair Labor Standards Act of 1938, 29 U.S.C. §201, et seq.

FACTS

6. Defendant is an employer and enterprises as those terms are defined by the FLSA.

7. At all times relevant hereto, Defendant has been an enterprise engaged in commerce and/or in the production of goods for commerce, as those terms are defined by the FLSA.

8. At all times relevant hereto, Defendant has been an employer subject to the wage and hour provisions of the FLSA.

9. Defendant has repeatedly and willfully violated, and continue to willfully violate, Sections 6 and 7 of the FLSA by failing to pay Plaintiff and other similarly situated employees, or former employees, for the hours worked by such employees, by failing to pay Plaintiff and others for all overtime hours worked.

PLAINTIFF'S COMPLAINT

Plaintiff worked working through his lunch hour, off the clock, and failure to pay for all time worked with the knowledge of Defendant, for which Plaintiff was not paid wages. Due to the extremely heavy workload placed on Plaintiff and others by the Defendant, plaintiff was often required to work through his lunch hours, off the clock time, and overtime.

10. Plaintiff was employed in a position which was not exempt from the requirement that he be compensated for his hours of work by the payment of straight time and overtime. Defendant has repeatedly and consistently failed to pay Plaintiff and others for working through their lunch hour, off the clock time, and overtime hours.

11. The payments are not proper and do include any pay for which Plaintiff worked through his lunch hour, off the clock time, and overtime hours.

12. The evidence at trial will show that Plaintiff and others were not paid for all hours worked.

13. Plaintiff believes, and thereby, alleges that the failure of CONCORD HEALTHCARE GROUP, LLC d/b/a GARDENDALE REHABILITATION AND NURSING CENTER, to pay overtime Plaintiff for overtime pay was intentional.

14. An employer that violates the FLSA is liable for "unpaid overtime compensation . . . and in an additional equal amount as liquidated damages." Moreover, "any person who repeatedly or willfully violates [the FLSA], relating to wages shall be subject to a civil penalty not to exceed \$1,100 for each such violation." § 216(e)(2).

15. Defendant has repeatedly violated the Fair Labor Standards Act.

16. The administrator at the facility where Plaintiff was employed signed an employee action form on April 3, 2018. (See Exhibit "A" attached hereto). The form provided for a change in rate of pay from

PLAINTIFF'S COMPLAINT

\$26.00 per hour to \$26.94 per hour.

17. Plaintiff's earning statement reflect that Plaintiff was being paid \$23.00 per hour, which was later changed to \$23.94 per hour. (See Exhibit "B" attached hereto)

REQUESTED RELIEF

18. Plaintiff has suffered and continues to suffer damages as a result of the Defendant's failure and refusal to pay proper compensation, as shown above, because of the Defendant's continued violations of the FLSA. Plaintiff is entitled to judgment granting him damages in the amount of the difference between the partial wages actually received by the Plaintiff and the full wages he is entitled to recover under the law, including all uncompensated overtime wages for hours worked for any activity that is integral and indispensable to the principal activities, and attorney fees.

19. Plaintiff, in addition for his claim for actual damages, seek injunctive relief from the Court to prevent future violations of the FLSA, as alleged herein.

JURY DEMAND

20. Plaintiff requests a jury trial.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that judgment be granted:

1. Ordering the Defendant to pay the Plaintiff compensation due as a result of Defendant violation of the FLSA;
2. Ordering Defendant to pay the Plaintiff liquidated damages;
3. Ordering Defendant to pay the Plaintiffs a civil penalty not to exceed \$1,100.00 for each

PLAINTIFF'S COMPLAINT

violation of the FLSA.

4. Granting injunctive relief by ordering Defendant to comply with the requirements of the FSLA.
5. Ordering Defendant to pay Plaintiffs costs of court in this action;
6. Ordering Defendant to pay Plaintiff's reasonable attorney fees and litigation expenses/costs, including expert fees and expenses; and
7. Providing such other and further relief as is just and necessary.

Respectfully submitted,

/S/
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